

REMARKS

Claims 1-3, 5-7, 9-12 and 14-27 were examined and reported in the Office Action. Claims 1-3, 5-7, 9-12 and 14-27 are rejected. Claims 1, 6, 10, 15, 19, 26 and 27 are amended. Claims 1-3, 5-7, 9-12 and 14-27 remain.

Applicant requests reconsideration of the application in view of the following remarks.

I. 35 U.S.C. §101

It is asserted in the Office Action that claims 1, 6, 10, 15, 19 and 26-27 are rejected under 35 U.S.C. §101 because the claimed invention is not supported by either a credible asserted utility or a well established utility. Applicant has amended claims 1, 6, 10, 15, 19 and 26-27 to overcome the aforementioned rejection.

Accordingly, withdrawal of the 35 U.S.C. §101 rejection for claims 1, 6, 10, 15, 19 and 26-27 is respectfully requested.

II. 35 U.S.C. §112, second paragraph

It is asserted in the Office Action that claims 26 and 27 are rejected under 35 U.S.C. §112, second paragraph as being indefinite because it is unclear whether the limitations are part of the claimed invention. Applicant has amended claims 26 and 27 to overcome the aforementioned rejection.

Accordingly, withdrawal of the 35 U.S.C. §112 second paragraph rejection for claims 26 and 27 is respectfully requested.

III. 35 U.S.C. §103(a)

A. It is asserted in the Office Action that claims 1-3, 5-7, 9-12, 14-20, 22 and 24-27 are rejected under 35 U.S.C. §103(a) as being unpatentable over U. S. Patent No. 6,388,997 issued to Scott ("Scott") and in view of U. S. Patent No. 5,781,541 issued to Schneider ("Schneider"). Applicant respectfully traverses the foregoing rejections for the following reasons.

According to MPEP §2142 “[t]o establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.” (In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)). Further, according to MPEP §2143.03, “[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).” “*All words in a claim must be considered* in judging the patentability of that claim against the prior art.” (In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970), emphasis added.)

Applicant's amended claims 1, 6, 10, 15, 19, 26 and 27 each contain the limitations of “wherein the predetermined delay time is expressed as:

$$\text{first delay time}(\mu\text{s}) = \frac{\text{Radius(Km)} \times 2}{3 \times 10^5} \times 10^6,$$

where Radius is a length of the expanded radius.”

As asserted in Paper 11 mailed on February 12, 2004, the Examiner acknowledged that none of the prior art (i.e., Scott, Schneider and US Patent No. 6,212,405 issued to Jiang et al ("Jiang")) teach a time delay equation such as:

$$\text{first delay time}(\mu\text{s}) = \frac{\text{Radius(Km)} \times 2}{3 \times 10^5} \times 10^6.$$

Therefore, even if Scott were combined with Schneider, the resulting invention would still not contain all the limitations of Applicant's amended claims 1, 6, 10, 15, 19, 26 and 27. Since neither Scott, Schneider, nor the combination of the two disclose, teach or suggest all the limitations contained in Applicant's amended claims 1, 6, 10, 15, 19, 26 and 27, as listed above, there would not be any motivation to arrive at Applicant's

claimed invention. Thus, Applicant's amended claims 1, 6, 10, 15, 19, 26 and 27 are not obvious over Scott and Schneider since a *prima facie* case of obviousness has not been met under MPEP §2142. Additionally, the claims that directly or indirectly depend from claims 1, 6, 10, 15 and 19, namely claims 2-3 and 5, 7 and 9, 11-12 and 14, 16-18, and 20, 22, and 24-25, respectively, would also not be obvious over Scott and Schneider for the same reason.

Accordingly, withdrawal of the 35 U.S.C. §103(a) rejection for claims 1-3, 5-7, 9-12, 14-20, 22 and 24-27 is respectfully requested.

B. It is asserted in the Office Action that claim 21 is rejected under 35 U.S.C. §103(a) as being unpatentable over Scott in view of Schneider and further in view of Jiang. Applicant respectfully traverses the foregoing rejections for the following reasons.

Applicant's claim 21 directly depends on claim 19. As asserted above in section III(A), the Examiner acknowledged that none of the prior art (i.e., Scott, Schneider and Jiang) teach a time delay equation such as: $first\ delay\ time(\mu s) = \frac{Radius(Km) \times 2}{3 \times 10^3} \times 10^6$.

Therefore, even if Scott were combined with Schneider and Jiang, the resulting invention would still not contain all the limitations of Applicant's amended claim 19. Since neither Scott, Schneider, Jiang, nor the combination of the three disclose, teach or suggest all the limitations contained in Applicant's amended claim 19, as listed above, there would not be any motivation to arrive at Applicant's claimed invention. Thus, Applicant's amended claim 19 is not obvious over Scott and Schneider in further view of Jiang since a *prima facie* case of obviousness has not been met under MPEP §2142. Additionally, the claim that directly depends from claim 19, namely claim 21, would also not be obvious over Scott and Schneider in further view of Jiang for the same reason.

Accordingly, withdrawal of the 35 U.S.C. §103(a) rejection for claim 21 is respectfully requested.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely 1-3, 5-7, 9-12 and 14-27, patentably define the subject invention over the prior art of record and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

PETITION FOR EXTENSION OF TIME

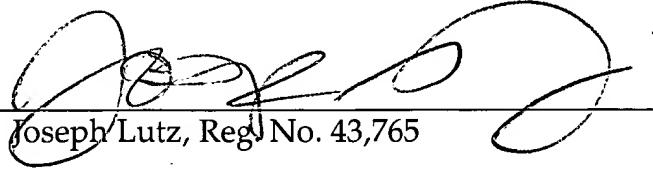
Per 37 C.F.R. 1.136(a) and in connection with the Office Action mailed on TUESDAY, JULY 20, 2004, Applicant respectfully petitions the Commissioner for a two (2) month extension of time, extending the period for response to MONDAY, DECEMBER 20, 2004. The Commissioner is hereby authorized to charge payment to Deposit Account No. 02-2666 in the amount of \$450.00 to cover the petition filing fee for a 37 C.F.R. 1.17(a)(2) large entity. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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Dated: December 20, 2004

By _____


Joseph Lutz, Reg. No. 43,765

CERTIFICATE OF MAILING

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I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail with sufficient postage in an envelope addressed to: Mail Stop Fee Amendments, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450 on December 20, 2004.


Jean Svoboda